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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/695,745	10/30/2003	Masanao Kamei	4710-0102P	6042
2292	7590	08/03/2005	EXAMINER	
BIRCH STEWART KOLASCH & BIRCH			SINGH, JAI P	
PO BOX 747				
FALLS CHURCH, VA 22040-0747			ART UNIT	PAPER NUMBER
			1616	

DATE MAILED: 08/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/695,745	KAMEI ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Jai P. Singh	1616	

— The MAILING DATE of this communication appears on the cover sheet with the correspondence address —  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is **FINAL**.                                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-37 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____.

In an attempt to resolve the 35 U.S.C. 112, second paragraph rejections of this application, Mr. Stewart was contacted by phone dated July 25, 2005. He could not be reached at by phone. A message was left at his office.

Claims 1-37 are pending.

The following is a quotation of 35 U.S.C. 112, second paragraph which forms the basis for rejection set forth in the office action:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards his invention.

1. Claims 1-37 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite and generic for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The formula (1) in the claimed invention is drawn to powder composition comprising polyglycerine modified silicone having a coloring agent in the powder. It is unclear from the formula as to how R<sup>1</sup>, R<sup>2</sup> and R<sup>3</sup> are attached on the silicon and what specific structure(s) of the polymer can be drawn using different values of R<sup>1</sup> using general formula (formula 1). The definition of R<sup>4</sup> is unclear in the formula (formula 2) as claimed in the invention by applicant. Further, it is also unclear as to how different organic groups are attached in the generic formula 1 to provide specific structure given the variable values of a, b and c (instead of fractions) which will meet all limitations of the claimed invention.

2. The definition of  $R^2$  (polyglycerine derivative) part of the formula 3 and 4 also have different ranges of s and t integers and contains several groups. It will be difficult to predict the specific and exact structure of the polymer using different values of integer s and t values. It will be important to clarify the polymer structure using specific s and t values in conjunction with a, b and c values in formula 1 which will be able to explain all limitations of claimed inventions (claims 1-37).

3. The definition of  $R^1$  is lacking in the generic formula for  $R^3$  portion of the polymer (general formula 5) which makes the formula unclear and indefinite in light of different values of integer g and h and different values of integer a, b and c in the overall polyglycerine modified silicone powder. The values of a, b and c are also broad and it will be important to clearly explain these values giving specific structure using specific values in the claimed invention. Using different values of integers (instead of fractions), different structures can be drawn but it is unclear as which specific polymer is produced exhibiting the characteristics of a polyglycerine modified silicone powder meeting the limitations of all claimed invention (claims 1 to 37).

4. The definition of the silicone oil in claims 8-12 representing generic formula does not clearly provide the exact definition of the oil and the nature of oil (unctuous agent) which contains fluorine atom or an amino group (claims 8-12).

5. The definition of the polymethylsilsesquioxane is unclear and as how this is attached on the polymer in the generic formula 1 (claims 17-19). Similarly the definition of the other moieties described in the claim 29 does not provide the structural features of the polymer which explains all features of the claimed invention.

6. There is no definition of the terms such as MQ, MDQ, MT, MDT, or MDTQ are provided by the applicant which gives the polymer structure containing pyrrolidone, polyoxyalkylene, fluoroalkyl and amino moieties in the polymer structure in the generic formula 1 by the applicant.

It is clear that the generic formula is broad and does not clearly explain all the features of the claimed invention by the applicant. Thus the structure of the silicone polymer remain unclear and indefinite. Therefore, one skilled in the art would not be able to determine the structure of the polymer and will not be able to define the metes and bounds of the subject matter claimed in the invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jai P. Singh whose telephone number is 571-272-8147. The examiner can normally be reached on M-F from 8:30 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

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supervisor, Gary Kunz can be reached on 571-272-0887. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

jps  
7/25/2005

  
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